

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
BILATERAL AGREEMENT BETWEEN UNITED STATES POSTAL
SERVICE AND ROYAL MAIL GROUP, LTD (MC2010-34)
NEGOTIATED SERVICE AGREEMENT

CP2015-1

**UNITED STATES POSTAL SERVICE NOTICE OF FILING
FUNCTIONALLY EQUIVALENT AGREEMENT WITH ROYAL MAIL GROUP, LTD.
(October 1, 2014)**

In accordance with 39 C.F.R. § 3015.5 and Order No. 546,¹ the United States Postal Service (Postal Service) gives notice that it has entered into an additional Competitive Multi-Service agreement with a Foreign Postal Operator.

This notice concerns the return of EMS parcels from the United States to the United Kingdom.² The Postal Service seeks to include the portion of the agreement with Royal Mail pertaining to returns from the United States to the United Kingdom within the larger grouping of Inbound Competitive Multi-Service Agreement with Foreign Postal Operators (MC2010-34) product, as the returned parcels are ancillary to the provision of inbound parcel services provided to Royal Mail.

¹ PRC Order No. 546, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 to the Competitive Product List and Approving Included Agreement, Docket Nos. MC2010-34 and CP2010-95, September 29, 2010.

² The Postal Service is also creating a system for the return of items from the United Kingdom to the United States in PRC Docket No. MT2013-2, as part of the ongoing International Merchandise Return Service market test. In this docket, the Postal Service is presenting an agreement with Royal Mail only to provide return EMS parcels from the United States to the United Kingdom (rates paid by Royal Mail to the Postal Service for the return of merchandise to the United Kingdom). The rates paid by the Postal Service to Royal Mail for IMRS for return shipments from the United Kingdom to the United States are not being presented to the Commission in this docket. Those rates represent supplier costs to the Postal Service, which are built into the prices that the Postal Service charges its shipping customers for IMRS. The Postal Service is filing an update to PRC Docket No. MT2013-2 to cover the charges to customers whose merchandise is being returned to the United States from the United Kingdom).

Prices and classifications for competitive products not of general applicability for such agreements were previously established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Inbound Competitive Multi-Service Agreements with Foreign Postal Operators, issued August 9, 2010 (Governors' Decision No. 10-3).³

The Postal Regulatory Commission (Commission) previously determined, in Order No. 546, that the agreement with Koninklijke TNT Post BV and TNT Post PakketSERVICE Benelux BV that is the subject of Docket No. CP2010-95 (TNT Agreement) should be included in the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 (MC2010-34 and CP2010-95) product. In Order No. 546, the Commission acknowledged that the Postal Service proposed "that additional agreements functionally equivalent to the TNT Agreement be added to the competitive product list as price categories under the Competitive Multi-Service Agreements product."⁴ The agreement with Royal Mail is functionally equivalent to the baseline agreement filed in Docket No. MC2010-34 because the terms of the agreements remain similar in scope and purpose. Although there are variations in the agreements, such as the products covered, the agreements share most terms and clauses in common. Other agreements that were filed within this group and reviewed by the Commission have had similar ancillary return service features for foreign origin parcels, including the Canada

³ A redacted copy of the Governors' Decision No. 10-3 was filed on August 13, 2010, and is filed as Attachment 3 of this Notice. An unredacted copy of this Governors' Decision was filed under seal on the same day with Request of United States Postal Service to Add Inbound Competitive Multi-Service Agreements with Foreign Postal Operators to the Competitive Product List, and Notice of Filing (Under Seal) of Enabling Governors' Decision and Negotiated Service Agreement, Docket Nos. MC2010-34 and CP2010-95, August 13, 2010. That notice may be accessed at the following link: http://prc.gov/Docs/69/69690/MC2010-34_CP2010-95%20Request_Notice.pdf.

⁴ PRC Order No. 546, at 4.

Post Bilateral⁵ and the Australia Post Bilateral.⁶ Accordingly, the Postal Service requests that the Commission include the agreement with Royal Mail within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 (MC2010-34) product.

A copy of the Agreement and the supporting financial documentation establishing compliance with 39 U.S.C. § 3633 and 39 CFR § 3015.5 are being filed under seal with the Commission. Attachment 1 is a redacted copy of the Royal Mail Agreement. Attachment 2 is the certification required by 39 CFR § 3015.5(c)(2). The redacted version of the Governors' Decision that authorizes inbound competitive agreements with foreign postal operators is included as Attachment 3. The Postal Service's application for non-public treatment of the applicable materials is included with this filing as Attachment 4. A redacted version of the supporting financial documentation is included with this filing as a separate Excel file.

Identification of the Additional Inbound Competitive Multi-Service Agreement with a Foreign Postal Operator

The Postal Service believes that the Agreement fits within the Mail Classification Schedule (MCS) language included as Attachment A to Governors' Decision No. 10-3. The competitive service offered to Royal Mail in the agreement includes rates for International Merchandise Return Service (IMRS). The parties intend for the Agreement to become effective as soon as the Commission completes its review, but not earlier than October 15, 2014. The rates included in the Agreement will remain in effect until

⁵ See Letter from Anthony Alverno, Chief Counsel, U.S. Postal Service, to Shoshana Grove, Secretary, Postal Regulatory Commission (May 6, 2013)

⁶ See Letter from Anthony Alverno, Chief Counsel, U.S. Postal Service, to Shoshana Grove, Secretary, Postal Regulatory Commission (June 28, 2013).

September 30, 2015 or until they are amended or terminated pursuant to the terms of the Agreement.

Functional Equivalency of Inbound Competitive Multi-Service Agreements with Foreign Postal Operators

As explained above, the agreement with Royal Mail is functionally equivalent to the baseline agreement filed in Docket No. MC2010-34 because the terms of the agreements remain similar in scope and purpose. Moreover, the agreement with Royal Mail is functionally equivalent to other agreements that the Commission has determined to be appropriately included in the product grouping for Inbound Competitive Multi-Service Agreements with Foreign Postal Operators, such as the bilateral agreement with Australia Post filed in Docket No. CP2014-12 and the bilateral agreement with Canada Post filed in CP2014-13, which both contain an IMRS product.

The Agreement with Royal Mail fits within the proposed MCS language for Inbound Competitive Multi-Service Agreements with Foreign Postal Operators¹ because the general terms and conditions of the agreement with Royal Mail are functionally equivalent to the baseline agreement with Koninklijke TNT Post BV and TNT Post PakketSERVICE Benelux BV. The IMRS service is considered an ancillary service, related to traditional items that are exchanged with the postal operator of the United Kingdom, just as the IMRS product was created as an ancillary product in bilateral agreements with Canada Post⁷ and Australia Post.⁸ Therefore, it can be said that the Agreement has similar characteristics to the baseline agreement.

⁷ See Letter from Anthony Alverno, Chief Counsel, Global Business & Service Development, U.S. Postal Service, to Shoshana Grove, Secretary, Postal Regulatory Commission (May 6, 2013)

The Postal Service submits that the Agreement is functionally equivalent to the baseline agreement and should be added to the competitive product list within the same product listing. In addition to covering different products between different parties, as shown in the differences between the attachments and annexes to the agreements, some other differences in the agreements are described below:

- This instrument does not establish rates for inbound parcel services; parcels from the UK will continue to be accepted through the EMS and Air CP streams under either rates established through Universal Postal Union processes, or in the case of Air CP, the existing bilateral instrument with Royal Mail;⁹
- Addition of “Customs Inspection” in Article 8 and subsequent renumbering;
- Changes to terms of termination options in Article 9;
- Removal of “Construction” clause, Article 10 of the baseline agreement;
- Addition of “Sanctions” clause, Article 11 in Agreement with Royal Mail;
- Changes to terms of “Indemnification and Liability,” including title, in Article 12 of Agreement with Royal Mail;
- Addition of “Intellectual Property, Co-Branding, and Licensing” and “Survival” clauses, Articles 24 and 25 of Agreement with Royal Mail.

The differences do not affect the fundamental nature of the agreement.

⁸ See Letter from Anthony Alverno, Chief Counsel, Global Business & Service Development, U.S. Postal Service, to Shoshana Grove, Secretary, Postal Regulatory Commission (June 28, 2013).

⁹ See Royal Mail Group – United States Postal Service Contractual Bilateral Agreements, Docket No. MC2009-24 and CP2009-28.

Conclusion

For the reasons discussed above, and on the basis of the financial data filed under seal, the Postal Service has established that the Agreement with Royal Mail is in compliance with the requirements of 39 U.S.C. § 3633 and is functionally equivalent to other inbound competitive agreements with foreign postal operators. Accordingly, the Postal Service requests that the Agreement be added to the existing Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Anthony F. Alverno
Chief Counsel
Global Business and Service Development
Corporate and Business Law Section

Caroline R. Brownlie
Kyle Coppin
Attorneys

475 L'Enfant Plaza, S.W.
Washington, D.C. 20260-1137
(202) 268-2368; Fax -5628
Kyle.R.Coppin@USPS.gov
October 1, 2014

ROYAL MAIL GROUP LIMITED – UNITED STATES POSTAL SERVICE BILATERAL AGREEMENT

This Agreement ("Agreement") is between the United States Postal Service ("USPS"), an independent establishment of the Executive Branch of the Government of the United States with offices at 475 L'Enfant Plaza SW, Washington, DC 20260, and Royal Mail Group Limited, the postal operator in the United Kingdom, organized and existing under the laws of England, and having a place of business at 100 Victoria Embankment, London, EC4Y 0HQ ("Royal Mail"). The USPS and Royal Mail are referred to in this Agreement individually as a "Party" and together as the "Parties."

INTRODUCTION

The Parties desire to enter into a non-exclusive relationship whereby the Parties will provide each other certain products and/or services pursuant to the terms and conditions contained herein;

The Parties acknowledge and understand that the commencement of performance under this Agreement is subject to the approval of and/or non-objection by various entities with oversight responsibilities, which may include but not be limited to the USPS management's executive committee, the USPS Governors, and/or the U.S. Postal Regulatory Commission. Accordingly, Royal Mail acknowledges and understands that the ability of the USPS to perform under this Agreement may not occur prior to the Effective Date, and in this respect the provisions of Articles 3 and 4 shall apply;

In light of the aforementioned acknowledgements, the Parties desire to be bound by the terms of this Agreement as well as, prior to the Effective Date, the terms of Article 4 of this Agreement entitled "Conditions Precedent".

NOW, in consideration of the mutual promises set forth below, the Parties hereby agree as follows:

Article 1: Purpose of the Agreement

The purposes of this Agreement are the following:

1. to foster the maintenance and further development of a mutually beneficial relationship on behalf of the Parties' respective customers;
2. to set out the principles and general terms and conditions that shall apply to the exchange of certain international products and services between the Parties; and
3. to set out rates, services, and products as specified in the attached Annexes.

Article 2: Guiding Principles of the Agreement

1. The Parties agree to work together to improve the quality of postal services between the United Kingdom and the United States in order to better serve the market. In particular, the Parties agree to provide access to each other's operating networks and services in such a way that for each service provided:
 - (i) excellence in quality of service performance will be attained and maintained;
 - (ii) the flexibility required to meet changing market and logistical conditions will be supported;
 - (iii) the costs to each Party of providing services will be minimized; and
 - (iv) the settlement and payment processes will continue to be streamlined, with the objective being to make such processes efficient, timely, and specific to each particular service or type of service.

2. In addition to the level of cooperation specifically outlined in this Agreement, the Parties intend to collaborate further on product development, enhancements to current products, and specified value-added services required to meet the ever-evolving needs of their customers.

Article 3: Oversight and Effective Date

The terms and pricing set forth under this Agreement require the approval from various entities that have oversight responsibilities for the USPS as set out in Article 4 below. Upon execution of this Agreement, the USPS shall actively seek such approval with the aim of establishing the Effective Date in accordance with this Article 3 as soon as reasonably practicable. The Parties agree that this Agreement shall come into effect (1) after all such approvals have been obtained by USPS and (2) after notification to Royal Mail by USPS that all required approvals have been obtained, and the date of notification shall be "the Effective Date," unless an alternative date is proposed in the USPS's notification and agreed to by Royal Mail in a return communication, in which case that alternative date shall be the Effective Date.

Article 4: Conditions Precedent

The Parties acknowledge and understand that all obligations of the USPS under this Agreement shall be contingent on the USPS receiving approvals from, and/or non-objection by (hereinafter "Conditions Precedent") one or more internal and external bodies that have oversight responsibilities. Conditions Precedent may include but are not limited to: approvals or, if applicable, non-objection, from USPS management, the USPS executive committee, the Governors of the USPS, and the U.S. Postal Regulatory Commission. The Parties acknowledge that the Agreement might not be approved by such bodies. Until such time that all Conditions Precedent are fulfilled that are necessary to provide the products or services contemplated under the Agreement, no obligation shall exist for the USPS or Royal Mail and no benefit or rights granted through this Agreement shall inure to either Party unless and until the Effective Date occurs and upon such occurrence the Conditions Precedent shall have been fulfilled and the parties will be bound by the obligations of the Agreement.

Article 5: Limitation on Liability and Costs

Prior to the Effective Date, the USPS and Royal Mail shall have no liability to each other, which shall include no obligation to pay costs associated with any action taken by either Party prior to the Effective Date of the Agreement. Further, in the event of termination of the Agreement prior to the Effective Date, neither Party shall be held liable for any damages including, without limitation, the following: actual damages; special damages; indirect damages; incidental damages; punitive damages; consequential damages; or any other damages, which shall include but not be limited to damages for loss of business profits; business interruption; any other loss; and/or any cost incurred by either Party attributable to such non-approval such as attorney's fees.

Article 6: Price Changes; No Effect on Service Terms

For each of the services with specific terms and conditions set forth in an attachment to this Agreement, any adjustments to the rates for the services shall be subject to the terms and conditions set forth in the Attachments or Annexes.

Article 7: Monetary Transactions

1. Each Party will bear the costs and retain the revenues for any work performed by itself and by agents or contractors on its behalf, unless the Parties agree to other arrangements to allocate costs or revenues and those arrangements are incorporated in an Amendment to this Agreement. Any such Amendment shall be governed by Article 19 below.
2. All taxes and duties are the sole responsibility of the Party to whom they are duly assessed and shall not be charged to any other Party in any form unless the Parties otherwise provide in an Amendment to this Agreement. Any such Amendment shall be governed by Article 19 below.

Article 8: Customs Inspection

Neither party bears responsibility for the disposition of the other Party's items in the custody of U.S. Customs & Border Protection or HM Revenue and Customs as applicable. Further, the Parties understand that all contents of any item, including items that are treated as sealed mail under USPS regulations or similar UK regulations, are subject to inbound search and inspection by U.S. Customs & Border Protection or HM Revenue and Customs as applicable, regardless of when the relevant Party elects to conduct verification and acceptance of any inbound items.

Article 9: Termination

1. Either Party may terminate this Agreement without cause upon 6 months advance written notice to be served on the other Party, with such termination effective as of the end of the calendar month in which the notice period expires. The right to terminate the Agreement for good cause remains unaffected.
2. In the event of termination of the Agreement under this Article, the Parties shall be liable to make final settlement of all amounts owing as of the effective date of the termination. Each Party shall bear its own costs in the event of termination. All further rights and remedies shall remain unaffected.
3. Either party may terminate this Agreement immediately upon the occurrence of a material breach that is either incapable of remedy or not remedied by the breaching party within 30 days of being notified in writing by the innocent party. For the purpose of this paragraph 3, Article 9, a "material breach" shall mean a breach (including an anticipatory breach) that is non minimal or trivial in its consequences to the non-breaching party; or has an adverse effect, which is neither trivial or minimal, on the services provided or to be provided to the non-breaching party.

Article 10: Dispute Resolution

1. The Parties intend to use reasonable endeavours to resolve all controversies under this Agreement informally through correspondence, oral communications, and informal meetings.
2. If the method described in the above paragraph proves insufficient to resolve a controversy, the Parties agree that the signatories to this agreement, or their replacement, shall provide a written description of the controversy to the other Party and a suggested outcome. The Parties will review the information provided and shall attempt in good faith to come to an agreement on the issue through correspondence, oral communications, or informal meetings.
3. Any dispute which cannot be resolved in accordance with Article 10.1 and 10.2, including any question regarding the existence, validity or termination of this Agreement, shall, at the request of either Party, be referred to arbitration for final settlement in accordance with the Rules of the International Chamber of Commerce (the Rules) by three arbitrators who have substantial experience in business disputes and are appointed in accordance with the Rules. The Rules are deemed to be incorporated by reference into this Article 10.3. The place of arbitration shall be Paris, or another mutually agreed to location, and the arbitration proceedings shall be conducted in the English language.
4. Notwithstanding the foregoing provisions of this Article 10, nothing in this Agreement shall prevent a Party from applying to a court for interim relief pending the resolution of a dispute in accordance with the provisions of this Agreement.
5. If the methods described in the above paragraphs prove insufficient to resolve a dispute, the Parties agree that each Party may bring an action against the other Party in the courts. The parties agree that this Agreement shall be governed by United States federal law and if no United States federal law is applicable, then New York State law shall be the governing law.

6. Notwithstanding the provisions of this Article 10, and without prejudice to Article 12, paragraph 1, in the event of conflict or inconsistency between the provisions of this Article 10 and Article 12, paragraph 1, the provisions of Article 12, paragraph 1 shall prevail.

Article 11: Sanctions

1. Each of the Parties will comply with all laws, regulations and orders from time to time imposing sanctions (including trade restrictions and economic (including financial) sanctions) on countries, individuals or entities that are applicable to it ("Sanctions Laws") namely, USPS will comply with any applicable Sanctions Laws of the United States, and Royal Mail will comply with any applicable Sanctions Laws of the United Kingdom, including in both cases, all such Sanctions Laws which implement sanctions that have been approved by the United Nations Security Council.
2. If a Party fails to comply with any laws, regulations or orders from time to time imposing sanctions (including trade restrictions and economic (including financial) sanctions) on countries, individuals or entities that are applicable to such Party as determined by a competent administrative, regulatory, or judicial body, then, without affecting any other remedies the other Party may have, such other Party will be entitled to terminate this Agreement immediately by providing written notice to the other Party. Further, if either Party, or any member of its group, is listed on the Sanctions Laws lists maintained by competent authorities in either the United States or the United Kingdom, then either Party will be entitled to terminate this Agreement immediately by providing written notice to the other Party.

Article 12: Liability

1. The Parties acknowledge that aspects of liability and indemnification (including, but not limited to registered mail and air parcels) not expressly governed by this Agreement or its regulations are subject to the appropriate provisions of the Acts of the Universal Postal Union and any reservations the Parties have taken to those instruments.
2. Nothing in this Agreement shall be construed as an acknowledgment or concession regarding the validity of any claim or the entitlement of any Party to any amount of damages.
3. Under no circumstances shall the liability of one Party to the other Party in any year of the term exceed the charges payable to the liable party by the other Party under this Agreement in that year.
4. Except as provided by law, no Party to this agreement shall be held liable to the other for any: special, incidental or punitive damages; indirect or consequential losses; or for loss of business profits, business interruption, or other losses of a purely economic nature (whether direct or indirect).

Article 13: Language

The official version of this Agreement, including all supporting documentation and correspondence, shall be in English. The English language shall be the controlling language for the purpose of interpreting this Agreement, and all correspondence between the Parties pertaining to this Agreement shall be in the English language. In the event of inconsistency between any terms of this Agreement, including its supporting documentation and correspondence, and any translation into another language, the English language meaning shall control.

Article 14: Confidentiality Requirements

1. The Parties consider the rate information included in this Agreement to be commercially sensitive information and agree that it should not be disclosed to third parties except as required by law. Royal Mail will treat as confidential and not disclose to third parties, absent express written consent by the USPS, any information related to this Agreement that is treated as non-public by the U.S. Postal Regulatory Commission.
2. Royal Mail acknowledges that as part of securing approval of this Agreement and in other subsequent regulatory filings, the Agreement and supporting documentation will be filed with the U.S. Postal Regulatory Commission ("Commission") in a docketed proceeding. Royal Mail authorizes the USPS to determine the scope of information that must be made publicly available under the Commission's rules, provided that USPS takes reasonable steps to prevent as far as possible the dissemination of Royal Mail's confidential information. Royal Mail further understands that any unredacted portion of this document may be posted on the Commission's public website, www.prc.gov. In addition, the USPS may be required to file information in connection with this instrument (including revenue, cost, or volume data) in other Commission dockets, including Commission docket numbers ACR2014, ACR2015, ACR2016, etc. Royal Mail has the right, in accordance with the Commission's rules, to address its confidentiality concerns directly with the Commission. The procedure for making an application to the Commission for non-public treatment of materials believed to be protected from disclosure is found at Title 39, Code of Federal Regulations, Section 3007.22, on the Commission's website: www.prc.gov/Docs/63/63467/Order225.pdf. At Royal Mail's request, the U.S. Postal Service will notify Royal Mail of the docket number of the Commission proceeding to establish the rates in this instrument under U.S. law, once that docket number has been assigned.
3. To the extent lawful, USPS agrees to take reasonable steps to avoid or limit the disclosure of Royal Mail's confidential information, including (without limitation) the redaction of parts of this Agreement containing confidential information where the Agreement is disclosed pursuant to mandatory laws or regulatory requirements. For the avoidance of doubt, the settlement rates set out in Schedule A to Annex 1 are confidential and must be redacted pursuant to this paragraph 3.

Article 15: Severability

If any of the provisions of this Agreement shall be held void or unenforceable, the other provisions shall survive and remain in full force and effect, subject only to either Party's unilateral right to terminate the Agreement.

Article 16: Notices

Any notice or other document to be given under this Agreement will be in writing and addressed as set out below. Notices may be delivered by hand, email, or Express Mail.

To the USPS:

Executive Director, International Post Affairs
United States Postal Service
475 L'Enfant Plaza SW, Room 1P906
Washington, DC 20260
United States of America
lea.emerson@usps.gov

To Royal Mail:

Gary Simpson
Deputy Chief Customer Officer
Royal Mail Group Limited
100 Victoria Embankment
London
EC4Y 0HQ

Article 17: Force Majeure

Neither party shall be liable for its failure to perform under the terms of this Agreement due to any contingency beyond its reasonable control, including acts of God, fires, floods, wars, sabotage, accidents, labor disputes (including strikes or industrial action) or shortages, governmental laws, ordinances, rules and regulations, whether valid or invalid, court orders, whether valid or invalid, inability to obtain material, equipment, or transportation, and any other similar or different contingency.

Notwithstanding the exclusion of liability pursuant to this Article 17, both Parties agree to take reasonable steps to avoid events beyond their control having an adverse effect on the services and mitigate any such adverse effects should they occur.

Article 18: Legal Status of this Agreement

This Agreement constitutes a legally binding agreement on the part of each signatory hereto and does not bind the Parties' respective governments. The Parties acknowledge that this Agreement sets out the terms and conditions of a negotiated contractual arrangement between the Parties and is not an agreement entered into or subject to international law. This Agreement does not involve the creation of a wholly-owned subsidiary of any Party or a joint venture company or partnership funded in any ratio by the Parties. The Parties do not intend that any agency or partnership relationship be created between any of them by this Agreement.

Article 19: Amendment

This Agreement may be amended or extended only by mutual written agreement signed by authorized representatives of Royal Mail and USPS. Neither a Party's acquiescence in any performance at variance to this Agreement nor a Party's failure to exercise any right or enforce any obligation shall be deemed an amendment to this instrument. The Amendment may be contingent upon any and all necessary approvals by USPS management, the USPS Governors, the USPS Board of Governors, and/or the U.S. Postal Regulatory Commission. If such approvals are required, the Amendment will not become effective until such time as all necessary approvals are obtained.

Article 20: Assignment

This Agreement may not be assigned in whole or in part by any Party without the prior written consent of the other party, which may not be unreasonably withheld or delayed. Notwithstanding this Article 20, Royal Mail may transfer the Agreement (or any part of it) to any successor or member of its group without USPS's consent.

Each Party may, however, delegate certain of its responsibilities under this Agreement to a subsidiary or other affiliate entity within its organizational structure without the need for consent by the other Parties so long as such subsidiary or entity would be bound by this Agreement.

Article 21: Applicability of Other Laws

1. The Parties acknowledge that this Agreement does not involve the USPS's acquisition of property or services and is not subject to the Contract Disputes Act (41 U.S.C. §§ 601 et seq.).
2. The Parties recognize that performance under this Agreement may be subject to laws enacted or enforced by governmental entities and is contingent on each Party obtaining all consents, authorizations, orders, or approvals required under applicable law or policy to effectuate the Agreement.
3. The Parties understand that USPS may be required to provide copies of this Agreement to the U.S. Department of State and the U.S. Postal Regulatory Commission. Royal Mail acknowledges that the entire Agreement, or portions thereof as the USPS determines to be

appropriate, will be filed with the U.S. Postal Regulatory Commission with a notice to add it to the competitive and/or market dominant products list.

Article 22: Entire Agreement

1. Except as otherwise provided in this Agreement, this Agreement, including all Annexes to this Agreement, shall constitute the entire agreement between the Parties concerning the exchange of international mail described herein. Except as otherwise indicated in this agreement, any prior agreement, understanding, or representation of any kind pertaining to the subject matter of this Agreement and preceding the date of this Agreement shall not be binding upon either Party.
2. The Parties acknowledge that the provisions of the Universal Postal Convention and applicable regulations apply except to the extent inconsistent with this Agreement.

Article 23: Term

1. The USPS will notify Royal Mail of the Effective Date as soon as reasonably practicable after receiving the approval of the entities that have oversight responsibilities for the USPS. USPS shall have no obligation to notify Royal Mail of the status of the approval process or of potential fulfillment of the approval process.
2. The Agreement will remain in effect for one calendar year after the Effective Date unless terminated sooner pursuant to Article 9. Upon the expiration of the term, the Agreement shall automatically renew for additional periods of one calendar year.

Article 24: Intellectual Property, Co-Branding, and Licensing

The Parties acknowledge that in the service of improving existing international products or developing new international products under this Agreement that such products may be enhanced through the use of co-branding or the use of each Party's trademarks, logos or intellectual property. In such instances, the Parties acknowledge and agree that any use shall be subject to separate written agreements. The Parties acknowledge and agree that neither Party shall use the other Party's trademarks, logos or intellectual property until such time that a license for each specific such use has been executed by the Parties and all laws and regulations required for such license's effectiveness have been perfected, which shall include but not be limited to any recordation requirements.

Article 25: Survival

The provisions of Articles 5, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, and 24 shall survive the conclusion or termination of this agreement, as well as any other terms insofar as they apply to the Parties' continuing obligations to one another under the articles listed above.

IN WITNESS WHEREOF, the Parties agree to be bound as of the latest date of signature to the terms and conditions of this Agreement.

Royal Mail Group Limited



Deputy Chief Customer Officer

19 September 2014

Date

United States Postal Service



Giselle Valera
Managing Director, Global Business, and Vice
President

September 30, 2014

Date

Annex 1 – International Merchandise Return Service (IMRS)

Operational Procedures

1. Merchant shall send goods to the overseas customer using the postal network or any other outbound carrier.
2. Overseas customer wishing to return an item shall contact the Merchant and follow the Merchant's instructions for requesting return service and label. The instructions may vary by Merchant but must require the customer to submit detailed item information to the Merchant including name, address, contact information, merchandise description, type of service, and weight.
3. U.S. Merchant shall authorize the return and acquire return label [REDACTED]
 - a. [REDACTED] sends the label [REDACTED]
 - b. U.S. Merchant shall provide by electronic means (e-mail, pdf download etc.) the label and customs declaration to the customer in the United Kingdom.
4. UK Merchant shall authorize the return and acquire return label through [REDACTED]
 - a. [REDACTED] sends the label data [REDACTED]
 - b. UK Merchant shall provide by electronic means (e-mail, pdf download etc.) the label and customs declaration (form CN23) to the customer in the U.S.
5. All IMRS labels shall utilize the S10 barcode identifier. EMS IMRS shall reflect the "EU" prefix.
6. Both Posts shall capture IMRS item weights and transmit IMRS item barcodes and associated item weights in PREDES messaging upon dispatch.
7. EMS IMRS items shall be dispatched and returned [REDACTED]

Pay for Performance

International Merchandise Return Service Billing

The posts shall include IMRS item-level barcodes and weight data in PREDES messaging at the point of dispatch. Utilizing information from the PREDES, IPC shall provide a monthly and quarterly IMRS report to Royal Mail and USPS which will include the following required information:

1. A listing of IMRS item identifiers beginning with "EU" for all labels generated
2. The "Applied Invoice Weight" per item
3. Listing of billable and non-billable volume
4. Total billable item count and average billable weight

USPS/Royal Mail Settlement

- 1.
- 2.
- 3.
- 4.
- 5.

USPS/Royal Mail Customer Service Support for Inquiries, Claims and Liability

1. Royal Mail and USPS
2. After launching IMRS, Royal Mail and USPS shall work together to determine the success of the IMRS product based on user feedback and the rate of IMRS adoption.
3. At that time, Royal Mail and USPS shall make the determination

Limits of weights and size

1. The following limits of weight and size for EMS items shall apply to all IMRS items. At the date of this Agreement the following represents the current EMS limits:

Max weight:	30 KG
Minimum Length:	21 cm (8.274 inches)
Minimum Width:	14 cm (5.516 inches)
Minimum Height:	5mm (0.197 inch)
Maximum Length:	2.00 meters (78.744 inches)
Maximum Length + Girth (girth is the distance around the thickest part):	2.74 meters (107.879 inches)

Schedule A to Annex 1 – IMRS Settlement Rates

The following rates are irrespective of IMRS volume dispatched from Royal Mail to USPS and are applicable on a per (piece) item and [REDACTED] basis:

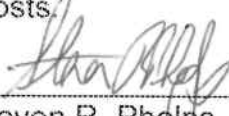
IMRS from Royal Mail to USPS		
IMRS Settlement Rates	Per Piece (SDR)	[REDACTED]
IMRS – Express Mail Service	[REDACTED]	[REDACTED]

IMRS from USPS to Royal Mail		
IMRS Settlement Rates	Per Piece (SDR)	[REDACTED]
IMRS – Express Mail Service	[REDACTED]	[REDACTED]

Certification of Prices for Royal Mail Group, Ltd. - United States Postal Service Bilateral Agreement

I, Steven R. Phelps, Manager, Regulatory Reporting and Cost Analysis, Finance Department, United States Postal Service, am familiar with the prices for the Royal Mail Group, Ltd. – United States Postal Service Bilateral Agreement. The prices contained in this agreement were established by the Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Inbound Competitive Multi-Service Agreements with Foreign Postal Operators, issued August 6, 2010 (Governors' Decision No. 10-3).

I hereby certify that the cost coverage for the agreement has been appropriately determined and represents the best available information. The prices are in compliance with 39 U.S.C. § 3633(a)(1), (2), and (3). The prices demonstrate that the agreement should cover its attributable costs and preclude the subsidization of competitive products by market dominant products. In Fiscal Year 2013, all international competitive mail accounted for a relatively small percentage of the total contribution by all competitive products. Contribution from this agreement should be much smaller. The agreement with Royal Mail should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.



Steven R. Phelps

"RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE"

**DECISION OF THE GOVERNORS OF THE UNITED STATES POSTAL SERVICE ON THE
ESTABLISHMENT OF PRICES AND CLASSIFICATIONS FOR INBOUND COMPETITIVE
MULTI-SERVICE AGREEMENTS WITH FOREIGN POSTAL OPERATORS
(GOVERNORS' DECISION NO. 10-3)**

August 6, 2010

STATEMENT OF EXPLANATION AND JUSTIFICATION

Pursuant to our authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 ("PAEA"), we establish new prices not of general applicability for certain of the Postal Service's competitive service offerings, and such changes in classification as are necessary to implement the new prices. This decision establishes prices by setting price floor and price ceiling formulas for Inbound Competitive Multi-Service Agreements with Foreign Postal Operators. The agreements to which these prices will apply are described in Attachment A.¹ The pricing formulas and management's analysis of the appropriateness of these formulas are specified in Attachment B. We have reviewed that analysis and have concluded that the prices and classification changes are in accordance with 39 U.S.C. §§ 3632-3633 and 39 C.F.R. §§ 3015.5 and 3015.7. Agreements that fall within the terms specified in Attachment A, and whose prices fall within the price ranges established by the price floor and price ceiling formulas specified in Attachment B, are hereby authorized.

The PAEA provides that prices for competitive products must cover each product's attributable costs, not result in subsidization by market dominant products, and enable all competitive products to contribute an appropriate share to the Postal Service's institutional costs. We are satisfied that the prices established according to the formulas listed in Attachment B will enhance the Postal Service's ability to meet the applicable statutory and regulatory requirements. We accept and rely upon the certification in Attachment C that the correct cost inputs for the formulas have been identified. In addition, the price floor formulas should produce prices that allow each product to cover attributable costs and

¹ Because the Postal Service is creating a new grouping for Inbound Competitive Multi-Service Agreements with Foreign Postal Administrations, entirely new Mail Classification Schedule language is proposed.

"RESTRICTED AND SENSITIVE BUSINESS INFORMATION - DO NOT DISCLOSE"

Governors' Decision No. 10-3

Page 2

provide a contribution toward the Postal Service's institutional costs. The prices should thus prevent cross-subsidies from market dominant products. As noted in the certification in Attachment C, entry into agreements pursuant to this Decision should not impair the ability of competitive products as a whole to cover an appropriate share of institutional costs.

No agreement authorized pursuant to this Decision may go into effect unless it is submitted to the Postal Regulatory Commission with a notice that complies with 39 U.S.C. § 3632(b)(3).

ORDER

In accordance with the foregoing Decision of the Governors, the formulas set forth herein, which establish prices for the applicable Inbound Competitive Multi-Service Agreements with Foreign Postal Operators, and the changes in classification necessary to implement those prices, are hereby approved and ordered into effect. An agreement is authorized under this Decision only if the prices fall within this Decision and the certification process specified herein is followed. Prices and classification changes established pursuant to this Decision will take effect after filing with and completion of review by the Postal Regulatory Commission.

By The Governors:

A handwritten signature in black ink, appearing to read "Lou Giuliano", is written over a horizontal line.

Louis J. Giuliano
Chairman

Attachment A

Description of Applicable Inbound Competitive Multi-Service Agreements with Foreign Postal Operators

2614 Inbound Competitive Multi-Service Agreements with Foreign Postal Operators

2614.1 Description

- a. Inbound Competitive Multi-Service Agreements with Foreign Postal Operators provide prices for acceptance, transportation within the United States, and delivery of any combination of Inbound Air Parcel Post, Inbound Surface Parcel Post, Inbound Direct Entry, and/or Inbound International Expedited Services (Express Mail Service) tendered by foreign postal operators. These constituent services may include other services that the relevant foreign postal operator offers to its customers under differing terms, but that nevertheless are processed and delivered in a similar manner within the United States Postal Service's network. Such agreements may also establish negotiated rates for services ancillary to such items and for customized competitive services developed for application solely in the context of the agreement.
- b. Inbound Competitive Multi-Service Agreements with Foreign Postal Operators may set forth general operating terms and conditions, on-time delivery and scanning service performance targets and standards, specifications for mail product categories and formats, processes for indemnity, and shared transportation arrangements that modify the requirements generally applicable to the services covered by each agreement.
- c. Items tendered under Inbound Competitive Multi-Service Agreements with Foreign Postal Operators items are either sealed or not sealed against inspection, according to the general nature of each underlying service.

2614.2 Size and Weight Limitations

Size and weight requirements are the requirements for Inbound Air Parcel Post at UPU Rates, Inbound Surface Parcel Post (at UPU Rates), Inbound Direct Entry, and Inbound International Expedited Services (Express Mail Service), respectively, subject to any applicable country-specific modifications.

2614.3 Optional Features

The Postal Service may offer such optional features as may be mutually agreed with the relevant foreign postal operator.

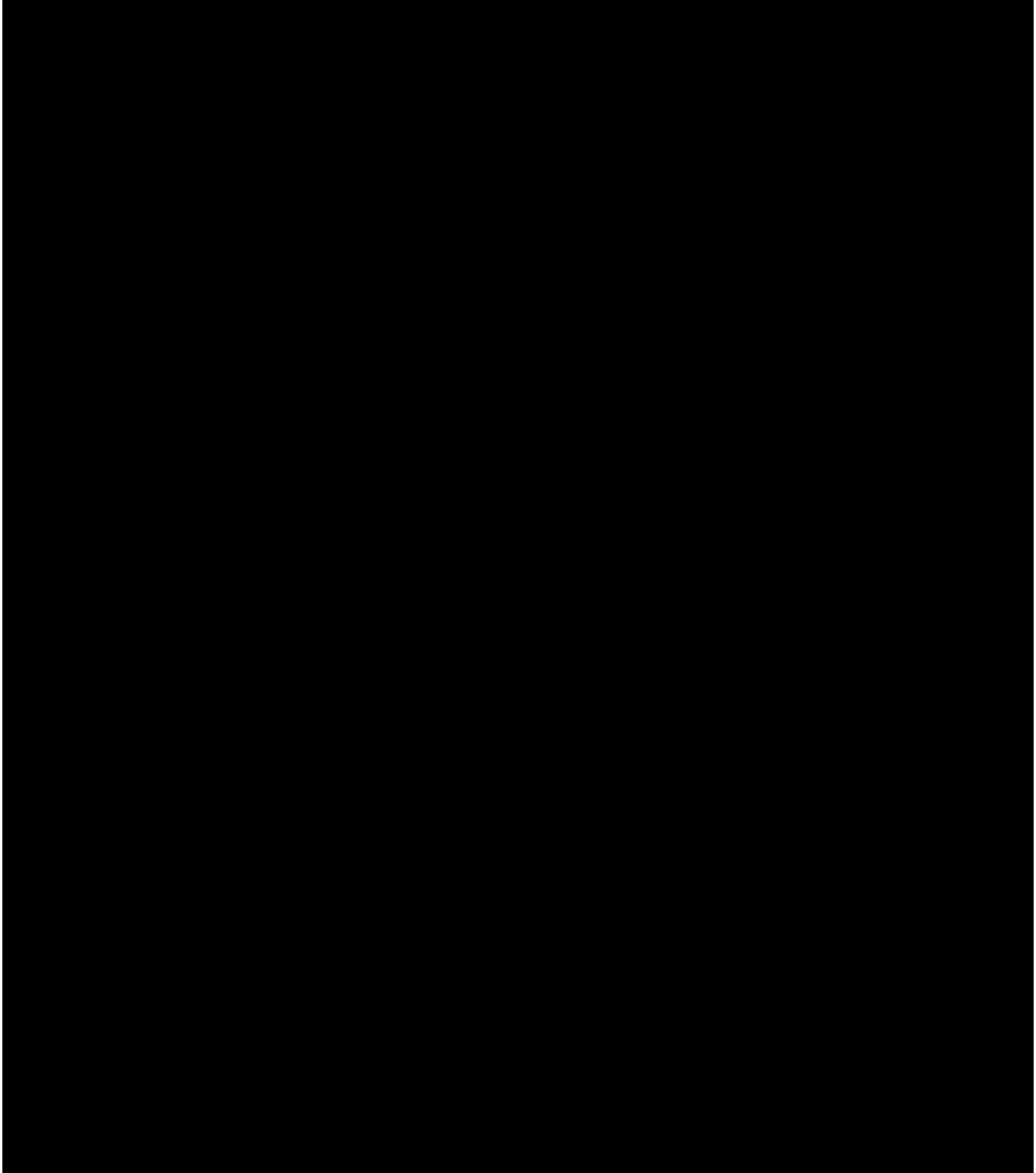
2614.4

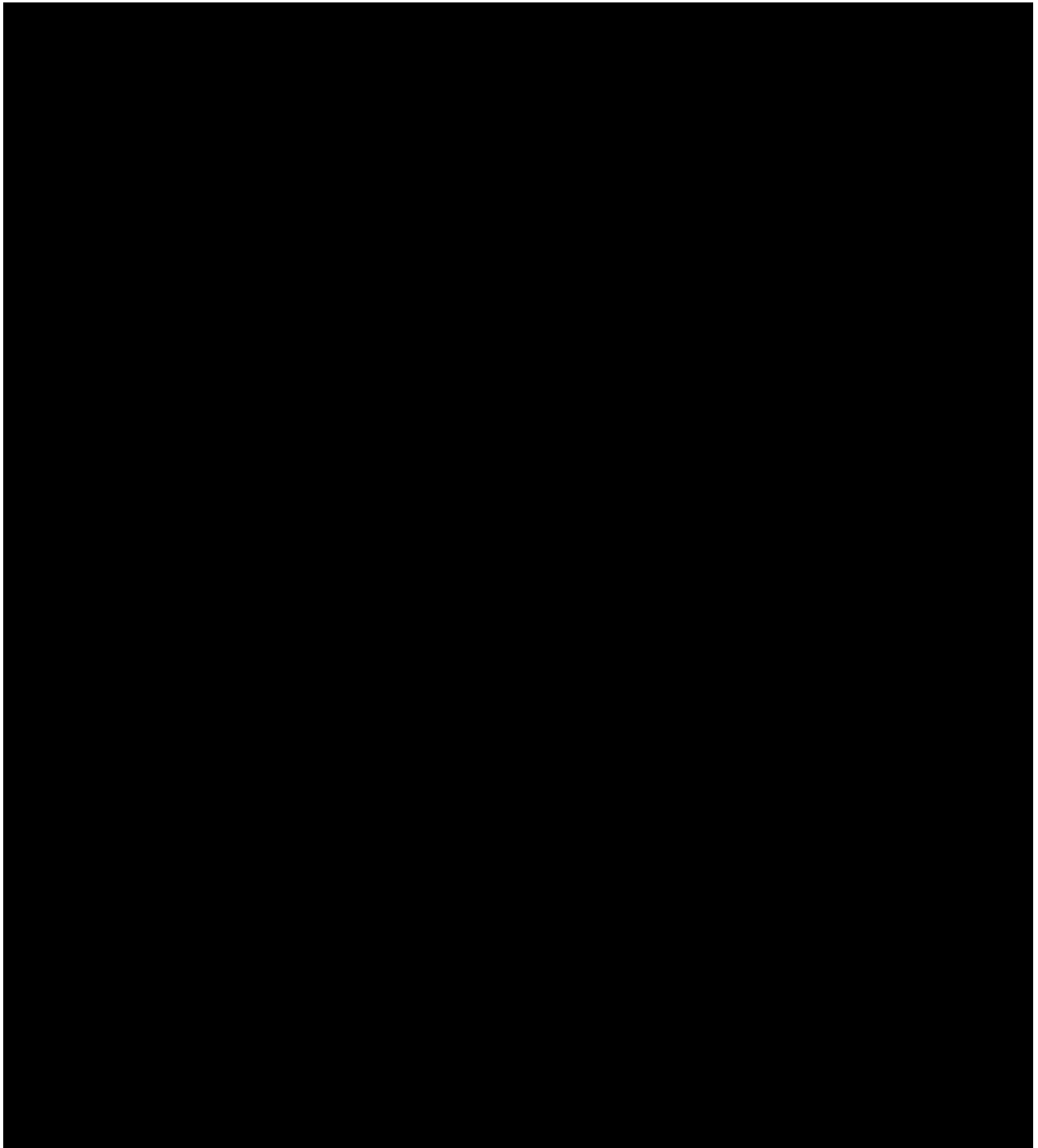
Products Included in Group (Agreements)

- Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 (MC2010-X, CP2010-X)

Attachment B

Formulas for Prices Under Applicable Inbound Competitive Multi-Service Agreements with Foreign Postal Operators





Attachment C

Certification of Prices for Inbound Competitive Multi-Service Agreements with Foreign Postal Operators

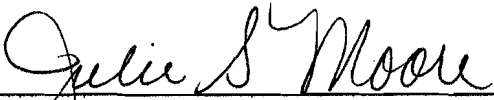
I, Joseph Moeller, Manager, Regulatory Reporting and Cost Analysis, Finance Department, United States Postal Service, am familiar with the price formulas for Inbound Competitive Multi-Service Agreements with Foreign Postal Operators, which are set forth in Attachment B. I hereby certify that these formulas adequately represent all necessary cost elements. If the Postal Service were to enter into agreements and offer services that set prices above the price floors, the Postal Service would be in compliance with 39 U.S.C. § 3633(a)(1), (2), and (3). The price floor formulas are designed to ensure that each agreement and service should cover its attributable costs and preclude the subsidization of competitive products by market dominant products. In Fiscal Year 2009, all international competitive mail accounted for a relatively small percentage of the total contribution by all competitive products. Contribution from Inbound Competitive Multi-Service Agreements with Foreign Postal Operators should be much smaller. Even if all such agreements are signed with prices at the price floor, they should not impair the ability of competitive products on the whole to cover an appropriate share of institutional costs.



Joseph Moeller

**CERTIFICATION OF GOVERNORS' VOTE
IN THE
GOVERNORS' DECISION NO. 10-3**

I hereby certify that the Governors voted on adopting Governors' Decision No. 10-3, and that, consistent with 39 USC 3632(a), a majority of the Governors then holding office concurred in the Decision.



Julie S. Moore
Secretary of the Board of Governors

Date: 8-9-2010

ATTACHMENT 4

UNITED STATES POSTAL SERVICE APPLICATION FOR NON-PUBLIC TREATMENT OF MATERIALS

In accordance with 39 C.F.R. § 3007.21, the United States Postal Service (Postal Service) applies for non-public treatment of certain materials filed with the Commission in this docket. The materials pertain to the bilateral agreement between Royal Mail and the United States Postal Service filed in this proceeding. The agreement and supporting documents establishing compliance are being filed separately under seal with the Commission. A redacted copy of the agreement is filed with the Notice as Attachment 1. In addition, a redacted version of the supporting financial documentation is included with this public filing as a separate Excel file.

The Postal Service hereby furnishes the justification required for this application by 39 C.F.R. § 3007.21(c) below.

(1) The rationale for claiming that the materials are non-public, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);

The materials designated as non-public consist of information of a commercial nature that would not be disclosed publicly under good business practice. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3) and (4).¹ Because the portions of the materials that are subject to this

¹ In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed

application fall within the scope of information not required for public disclosure, the Postal Service requests that the Commission grant its application for non-public treatment.

(2) Identification, including name, phone number, and e-mail address for any third party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;

In the case of the redacted agreement, the Postal Service believes that the only third party with a proprietary interest in the materials is the foreign postal operator with whom the contract is made. Through text in the agreement, the Postal Service has already informed the postal operator, in compliance with 39 C.F.R. § 3007.20(b), of the nature and scope of this filing and the operator's ability to address its confidentiality concerns directly with the Commission. Due to the sensitive nature of the Postal Service's relationship with the affected foreign postal operator, the Postal Service proposes that a designated Postal Service employee serve as the point of contact for any notices. The Postal Service identifies as an appropriate contact person Ms. Arneece Williams, Acting Director, Global Business Development, United States Postal Service. Ms. Williams' phone number is (202) 268-6705, and her email address is Arneece.L.Williams2@usps.gov.²

broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. PRC Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1, Mar. 20, 2009, at 11.

² The Postal Service acknowledges that 39 C.F.R. § 3007.21(c)(2) appears to contemplate only situations where a third party's identification is "sensitive" as permitting the designation of a Postal Service employee who shall act as an intermediary for notice purposes. To the extent that the Postal Service's filing might be construed as beyond the scope of the Commission's rules, the Postal Service respectfully requests a waiver to designate a Postal Service employee as the contact person under these circumstances, for the reasons provided in the text above.

(3) A description of the materials claimed to be non-public in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are non-public;

In connection with its Notice filed in this docket, the Postal Service included an agreement and financial workpapers associated with that agreement. These materials were filed under seal, with redacted copies filed publicly, after notice to the affected postal operator. The Postal Service maintains that the redacted portions of the agreement and related financial information should remain confidential.

With regard to the agreement filed in this docket, the redactions withhold the actual prices being offered between the parties under the agreement. The redactions applied to the financial workpapers protect commercially sensitive information, such as underlying costs and assumptions, negotiated pricing, and cost coverage projections. To the extent practicable, the Postal Service has limited its redactions in the workpapers to the actual information it has determined to be exempt from disclosure under 5 U.S.C. § 552(b).

(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;

If the portions of the agreement that the Postal Service determined to be protected from disclosure due to their commercially sensitive nature were to be disclosed publicly, the Postal Service considers that it is quite likely that it would suffer commercial harm. Information about negotiated pricing is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practices. Foreign postal operators could use the information to their advantage in negotiating the terms of their own agreements

with the Postal Service. Competitors could also use the information to assess the offers made by the Postal Service to foreign postal operators or other customers for any possible comparative vulnerabilities and focus sales and marketing efforts on those areas, to the detriment of the Postal Service. This latter concern applies to the extent that the prices in the filed agreement cover certain competitive services, which are included in the agreement filed under seal, and market dominant services for which competition exists. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the redacted material.

The financial workpapers include specific information such as costs, assumptions used in pricing decisions, the negotiated prices themselves, projections of variables, and contingency rates included to account for market fluctuations and exchange risks. All of this information is highly confidential in the business world. If this information were made public, the Postal Service's competitors would have the advantage of being able to determine the absolute floor for Postal Service pricing, in light of statutory, regulatory, or policy constraints. Thus, competitors would be able to take advantage of the information to offer lower pricing to postal customers, while subsidizing any losses with profits from other customers. Eventually, this could freeze the Postal Service out of the relevant inbound delivery services markets. Given that these spreadsheets are filed in their native format, the Postal Service's assessment is that the likelihood that the information would be used in this way is great.

Potential foreign postal operators could also deduce from the rates provided in the agreement or from the information in the workpapers whether additional margin for net contribution exists under agreement's prices. The settlement charges between the Postal Service and the foreign postal operator constitute costs underlying the postal services offered to each postal operator's customers, and disclosure of this cost basis would upset the balance of Postal Service negotiations with foreign posts by allowing them to negotiate, rightly or wrongly, on the basis of the Postal Service's perceived supplier costs.

From this information, each foreign postal operator or customer could also attempt to negotiate ever-decreasing prices, such that the Postal Service's ability to negotiate competitive yet financially sound rates would be compromised. Even the foreign postal operator involved in the agreement at issue in this docket could use the information in the workpapers in an attempt to renegotiate the rates in its instrument by threatening to terminate its current agreement.

Price information in the agreement and financial spreadsheets also consists of sensitive commercial information of the foreign postal operator. Disclosure of such information could be used by competitors of the foreign postal operator to assess the foreign postal operator's underlying costs, and thereby develop a benchmark for the development of a competitive alternative. The foreign postal operator would also be exposed to the same risks as the Postal Service in customer negotiations based on the revelation of their supplier costs.

(5) At least one specific hypothetical, illustrative example of each alleged harm;

Harm: Public disclosure of the prices in the Agreement, as well as any negotiated terms, would provide foreign postal operators extraordinary negotiating power to extract lower rates from the Postal Service.

Hypothetical: The negotiated prices are disclosed publicly on the Postal Regulatory Commission's website. Another postal operator sees the price and determines that there may be some additional profit margin below the rates provided to either operator. The other postal operator, which was offered rates comparable to those published in the agreement, then uses the publicly available rate information to insist that it must receive lower rates than those the Postal Service has offered.

Harm: Public disclosure of information in the financial workpapers would be used by competitors to the detriment of the Postal Service.

Hypothetical: A competing delivery service obtains unredacted versions of the financial workpapers from the Postal Regulatory Commission's website. It analyzes the workpapers to determine what the Postal Service would have to charge in order to comply with business or legal considerations regarding cost coverage and contribution to institutional costs. It then sets its own rates for products similar to what the Postal Service offers its customers below that threshold and markets its purported ability to beat the Postal Service on price for international delivery services. By sustaining this below-market strategy for a relatively short period of time, the competitor, or all of the Postal Service's competitors acting in a likewise fashion, would freeze the Postal Service out of one or more relevant international delivery markets. Even if the competing

providers do not manage wholly to freeze out the Postal Service, they will significantly cut into the revenue streams upon which the Postal Service relies to finance provision of universal service.

Harm: Public disclosure of information in the financial workpapers would be used detrimentally by the foreign postal operator's competitors.

Hypothetical: A competing international delivery service obtains a copy of the unredacted version of the financial workpapers from the Postal Regulatory Commission's website. The competitor analyzes the workpapers to assess the foreign postal operator's underlying costs for the corresponding products, as well as the prices it charges for return services to the United States. The competitor uses that information as a baseline to develop lower-cost alternatives.

(6) The extent of protection from public disclosure deemed to be necessary;

The Postal Service maintains that the redacted portions of the materials filed non-publicly should be withheld from persons involved in competitive decision-making in the relevant market for international delivery products (including both private sector integrators and foreign postal operators), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for this or similar products (including other postal operators) should not be provided access to the non-public materials. This includes the counter-party to the agreement with respect to all materials filed under seal except for the text of the postal operator's agreement, to which that counter-party already has access.

(7) The length of time deemed necessary for the non-public materials to be protected from public disclosure with justification thereof; and

The Commission's regulations provide that non-public materials shall lose non-public status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

(8) Any other factors or reasons relevant to support the application.

None.

Conclusion

For the reasons discussed, the Postal Service asks that the Commission grant its application for non-public treatment of the identified materials.